



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

SMC

Docket No: 06739-99

10 February 2000

SSGT [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear Staff Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 10 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 27 October 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. The Board noted that the reviewing officer marked block 3 of his certification, indicating he concurred with the marks the reporting senior assigned you in items 15a and b (general value to the service), rather than marking block 4, where he would have reported any disagreement with the peer ranking the reporting senior assigned. Further, he indicated no disagreement with the two marks of "EX" (excellent) the reporting senior gave you. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

Although the Board did not vote to enter the reporting senior's letter of 16 February 1999 in your record, nor did you request such action, they noted you may, if you wish, submit the letter to future selection boards.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and

material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

6-739-99

IN REPLY REFER TO:
1610
MMER/PERB
OCT 27 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
STAFF SERGEANT [REDACTED] USMC

Ref: (a) SSgt [REDACTED] Form 149 of 30 Aug 99
(b) MCO P1610.7D w/Ch 1-4

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 21 October 1999 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 970712 to 971231 (AN) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends that the report is administratively flawed and contains adverse/derogatory comments in Section C. Further, he believes the report fails to comply with the provisions of reference (b). To support his appeal, the petitioner furnishes his own statement, a copy of the challenged fitness report, a copy of his Master Brief Sheet, a copy of his Navy and Marine Corps Commendation Medal citation, extracts from his Service Record Book (SRB) and a letter from the Reporting Senior (Major [REDACTED]).

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. At the outset, the Board emphasizes that the report is, in all respects, in full compliance with the guidelines established in reference (b). Contrary to the petitioner's assertions, the beginning date in Item 3b is correct. It is the first day following the ending date of the last report; any period of 30 or more consecutive days of unavailability on the part of the Marine reported on is reflected in Item 3d. Such is the case with the fitness report under consideration.

b. The petitioner has misconstrued the provisions of reference (b). First, there is no inconsistency between any of the marks assigned in Section B and the narrative comments in Section C. Second, there is no correlation between receiving marks of "excellent" (qualified to a degree seldom achieved by

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others of the same grade) and official SRB entries. Third, the comments to which the petitioner objects are not "unacceptable" per subparagraph 4007.4e(6) of reference (b). In fact, they paint a very positive picture of the petitioner's performance as a newly assigned Marine to a very high profile training team. Finally, the remarks made by the Reviewing Officer **do not** have to correspond or agree with those made by the Reporting Senior. The Reviewing Officer's comments are intended to add depth and furnish a clear picture of the petitioner's overall potential. That is precisely what Lieutenant Colonel [REDACTED] has accomplished.

c. Notwithstanding Major [REDACTED]'s letter, the Board finds no justifiable reason to change the mark in Item 14b (personal appearance) to "outstanding." Not only is Major [REDACTED]'s request more than a year after the fact, but it contains no substantive rationale. We also observe that this is not the only fitness report in which the petitioner has been graded "excellent" in that particular category.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Staff Sergeant [REDACTED]'s official military record.

5. The case is forwarded for final action.

[REDACTED]
[REDACTED]
Chairperson, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps